

DRAFT

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
SECTION 2.08.130 OF PART 1 OF CHAPTER 2.08 OF
TITLE 2 OF THE SAN JOSE MUNICIPAL CODE TO
REVISE PROVISIONS FOR REMOVAL OF RETIREMENT
BOARD MEMBERS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 2.08.130 of Part 1 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

2.08.130 Removal From Office

- A. Except as provided in subsections B. and C., notwithstanding an appointment for a specific term or part of a term, any person appointed to and holding the position of member of any Board or Commission may be removed from appointment, at any time, by the Council, with or without prior notice, and with or without cause.
- B. Notwithstanding the appointment of a person to the position of member of the Board of Administration for the Police and Fire Department Retirement Plan for a specific term or part of a term, any person holding such position may be removed by the Council for cause as follows:
 - 1. The San José Police Officers' Association, the International Association of Fire Fighters, Local 230, or the City Manager, any retired member of the Police and Fire Department Retirement Plan or any member of the public

may submit a written request for removal to the City Council. Any such ~~The~~ request shall state the grounds for which removal is sought.

2. The City Council shall hold a hearing on ~~the~~any written request for removal submitted by the San José Police Officers' Association, the International Association of Fire Fighters, Local 230, or the City Managerand shall ~~provide notice of the hearing to the member of the board at least ten days prior to the date of the hearing.~~
 3. The Rules and Open Government Committee of the City Council shall consider any written request for removal submitted by a retired member of the Police and Fire Department Retirement Plan or any member of the public, and shall determine in its discretion, whether such request should be forwarded to the full City Council for hearing. Any such request shall state the grounds for which removal is sought.
 4. Notice of hearing shall be provided to the affected board member at least ten (10) days prior to the date of any City Council meeting.
- After ~~the~~ hearing, the City Council may remove the member of the Board from office if the Council makes a written findings of~~that there exists~~ substantial evidence of cause for removal. Cause may include, but is not limited to, failure to remain qualified for the Board position to which the member is appointed, failure to discharge the Board member's duty as a fiduciary for the plan, or failure to perform the Board member's duties in accordance with applicable law, including the requirements of Chapter 3.36 of Title 3 of this Code. For public members of the Board, cause for removal may also be based on failure to disclose all conflicts of interest, significant potential for conflict of interest, or appearance of conflict of interest as

required by Code Section 2.08.1220.E, and/or the existence of conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest as based on information disclosed by public members of the Board pursuant to Code Section 2.08.1220.E, or such other information as may be available to Council.

C. Notwithstanding the appointment of a person to the position of member of the Board of Administration for the Federated City Employees' Retirement System for a specific term or part of a term, any person holding such position may be removed by the Council for cause as follows:

1. The City Manager or any employee organization recognized by the City as an exclusive representative of employees who are members of the Federated City Employees' Retirement System may submit a written request for removal to the City Council. Any such~~The~~ request shall state the grounds for which removal is sought.
2. The City Council shall hold a hearing on any the request for removal submitted by the City Manager or any employee organization recognized by the City as an exclusive representative of employees who are members of the Federated City Employees' Retirement System~~and shall provide notice of the hearing to the member of the board at least ten days prior to the date of the hearing.~~
3. The Rules and Open Government Committee of the City Council shall consider any written request for removal submitted by a retired member of the Federated City Employees Retirement Plan or any member of the public, and shall determine in its discretion, whether such request should

be forwarded to the full City Council for hearing. Any such request shall state the grounds for which removal is sought.

4. Notice of hearing shall be provided to the affected board member at least ten (10) days prior to the date of any City Council hearing.
5. After the hearing, the City Council may remove the member of the Board from office if the Council ~~makes a written findings of that there exists~~ substantial evidence of cause for removal. Cause may include, but is not limited to, failure to discharge the Board member's duty as a fiduciary for the plan, or failure to perform the Board member's duties in accordance with applicable law, including the requirements of Chapter 3.36 of Title 3 of this Code. For public members of the Board, cause for removal may also be based on failure to disclose all conflicts of interest, significant potential for conflict of interest, or appearance of conflict of interest as required by Code Section 2.08.1070.F, and/or the existence of conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest as based on information disclosed by public members of the Board pursuant to Code Section 2.08.1070.F, or such other information as may be available to Council.

PASSED FOR PUBLICATION of title this _____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk